

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STEIN,

Plaintiff,

v.

CITRIX SYSTEMS, INC., ROBERT M.
CALDERONI, NANCY E. CALDWELL,
ROBERT D. DALEO, MURRAY J. DEMO,
THOMAS E. HOGAN, MOIRA A.
KILCOYNE, ROBERT E. KNOWLING, JR.,
PETER J. SACRIPANTI, and J. DONALD
SHERMAN,

Defendants.

ORDER

22 Civ. 1864 (ER)

RAMOS, D.J.

On March 4, 2022 Shiva Stein filed a complaint against Citrix Systems, Inc., et al, alleging violations of Sections 14(a) and 20(a) of the Securities Exchange Act of 1934. Doc. 1. None of the defendants have been served. On August 29, 2022, the Court directed Plaintiff to provide an update to the Court with respect to the status of their case by September 5, 2022. Doc. 3. The Court warned that “failure to do so may result in sanctions, including dismissal for failure to prosecute.” *Id.* On October 7, 2022 the Court again directed Plaintiff to submit a status report by October 14, 2022 and warned that “failure to do so will result in sanctions, including dismissal for failure to prosecute pursuant to Fed. R. Civ. P. 41(b).” Doc. 4.

Further, voluntary dismissals were filed and granted in three related cases (1:22-cv-01892-ER, 1:22-cv-02094-ER, 1:22-cv-02925-ER, and 1:22-cv-02976-ER). In all of these cases the dismissal was filed before service by Defendants.

For the reasons set forth below, the Court dismisses this case for failure to execute service under Federal Rule of Civil Procedure 4(m).

Rule 4(m) provides that “[i]f a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—*must* dismiss the action without prejudice against that defendant or order that service be made within a specified time.” Fed. R. Civ. P. 4(m) (emphasis added).

Over seven months have passed since Plaintiff filed the complaint. Plaintiff has also failed to comply with the Court’s Order dated August 29, even when warned that failure to comply could result in dismissal under Rule 4(m). Accordingly, the Court *dismisses* Plaintiff’s action without prejudice. The Clerk of Court is respectfully directed to terminate any pending motions and to close the case.

It is SO ORDERED.

Dated: October 17, 2022
New York, New York



Edgardo Ramos, U.S.D.J.